

01/25/05

1fw 3643



Application No.

10/647,684

Applicant(s)

RUIZ ET AL.

Examiner

Kurt Rowan

Art Unit

3643

NW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply & TRADEMARK OFFICE

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

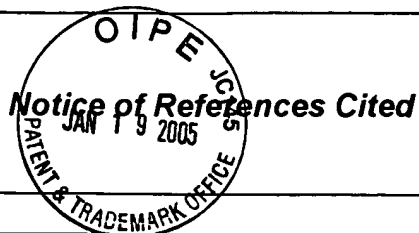
- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.



Application/Control No. 10/647,684		Applicant(s)/Patent Under Reexamination RUIZ ET AL.	
		Examiner Kurt Rowan	Art Unit 3643
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#### U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,796,078 B1	09-2004	Bowman, Robert	43/21.2
	B	US-2003/0089021 A1	05-2003	Miller, Jeffrey	43/21.2
	C	US-6,672,559 B1	01-2004	Boldia, Joseph	248/538
	D	US-6,052,937 A	04-2000	Morong, Richard	43/21.2
	E	US-US00D372956S	08-1996	Mills	D22/147
	F	US-US00D347672S	06-1994	McCann	D22/147
	G	US-4,901,469	02-1990	Murray, Mark T.	43/21.2
	H	US-4,869,195	09-1989	Eichfeld, Timothy J.	114/364
	I	US-4,527,349	07-1985	Emory, Jr., John E.	43/21.2
	J	US-4,157,803	06-1979	Mack, Raymond S.	248/512
	K	US-			
	L	US-			
	M	US-			

#### FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

#### NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

\*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)  
 Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.



### DETAILED ACTION

1. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).  
"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37  
CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A  
"Sequence Listing" is required on paper if the application discloses a  
nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if  
the required "Sequence Listing" is not submitted as an electronic  
document on compact disc).

Content of Specification

- (a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.
- (b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.
- (c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.
- (d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

- (e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts: ✓
- (1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field." ✓
- (2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art." ✓
- (f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.
- (g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.
- (h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the

field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

- (i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR 1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).
- (j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).
- (k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

If applicant continues to prosecute the application, revision of the specification and claims to the present application to present the application in proper form is required.

While an application can be amended to make it clearly understandable, no subject matter can be added that was not disclosed in the application as originally filed. In

particular, the **Detailed Description of the Invention** should be rewritten to conform to current US patent practice noting the format in the cited patents. ✓

### ***Drawings***

## **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified. ✓

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

### Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

### Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

### DRAWING OBJECTIONS

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hollow cylindrical tube, the length of flat rectangular material, a cylindrical extrusion, the open ends, the

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P5  
c-extrusion  
pg. #11

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ridged cavity, the cylindrical segment of material, the semi-circular C-shaped base, the T-shaped extending appendages, a length of lat rectangular material must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. All claimed subject matter must be shown and all structural elements must be shown having reference numerals that are in the **DETAILED DESCRIPTION**. Note the patents cited as "prior art" and how reference numerals are recited in the specification and shown in the drawings. The same element should be referred to by the same name throughout.

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.



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4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "7" and " 8" have both been used to designate the mounting bracket. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. For example, "there is a round locking end-piece" in line 10 of claim 1. The structure which goes to make up the device must be clearly and positively specified. In claim 1, line 18, "including a of flat screw" is confusing. In reference to

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claim 4, "have" in line 1, should be —has—. In reference to claim 5, "said open portion of surface..." is confusing. In reference to claim 8, "...along length of..." is confusing. It appears that a word has been omitted. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited. Below are some examples of improper claim language. In reference to claims 12-18, it appears that these claims are dependent claims. However, they are not recited to depend on another claim. Please clarify/correct.

7. Claim 1 recites the limitation "said hollow C-shaped ridged cylindrical extrusion of material" in lines 6-7. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 1 recites the limitation "the ends" in lines 18-19. There is insufficient antecedent basis for this limitation in the claim.

9. Claim 1 recites the limitation "said hollow C-extrusion of material" in line 19. There is insufficient antecedent basis for this limitation in the claim. Is this the same the "a hollow c-shaped cylindrical extrusion" recited in claim 1 ?

10. Claim 2 recites the limitation "the entire length" in line 2. There is insufficient antecedent basis for this limitation in the claim. "The" should be changed to —an--.

11. Claim 2 recites the limitation "said hollow c-shaped ridged cylindrical extrusion" in line 2. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 5 recites the limitation "its axis" in line 2. There is insufficient antecedent basis for this limitation in the claim. —An axis—would be correct.

13. Claim 5 recites the limitation "its length" in line 3. There is insufficient antecedent basis for this limitation in the claim. —A length—would be correct.

14. Claim 5 recites the limitation "said open center" in line 8. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 5 recites the limitation "said length of tubular material" in line 14. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 5 recites the limitation "said end-piece of tubular material" in line 16. There is insufficient antecedent basis for this limitation in the claim.

17. Claim 6 recites the limitation "said open center" in line 2. There is insufficient antecedent basis for this limitation in the claim.

18. Claim 8 recites the limitation "the length of its surface" in line 3. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 8 recites the limitation "said elongated cavity" in line 9. There is insufficient antecedent basis for this limitation in the claim.

20. Claim 9 recites the limitation "said cylindrical end-piece segments" in line 1. There is insufficient antecedent basis for this limitation in the claim.

21. Claim 10 recites the limitation "said open c-shaped ends" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim.

22. Claim 10 recites the limitation "said side brackets" in line 1 of page 20. There is insufficient antecedent basis for this limitation in the claim.

23. Claim 11 recites the limitation "said rounded end" in line 1 on page 21. There is insufficient antecedent basis for this limitation in the claim.

24. Claim 11 recites the limitation "said solid round rod end" in line 1 on page 21.

There is insufficient antecedent basis for this limitation in the claim.

25. Claim 11 recites the limitation "said C-extrusion" in line 1 on page 21. There is insufficient antecedent basis for this limitation in the claim.

26. Claim 11 recites the limitation "said hollow interior" in line 4 on page 21. There is insufficient antecedent basis for this limitation in the claim.

27. Claim 12 recites the limitation "the said slide-bracket" in line 1. There is insufficient antecedent basis for this limitation in the claim.

28. Claim 13 recites the limitation "the said single ridge" in line 1. There is insufficient antecedent basis for this limitation in the claim.

29. Claim 14 recites the limitation "the said slide bracket" in line 1. There is insufficient antecedent basis for this limitation in the claim.

30. Claim 15 recites the limitation "the single ridge" in line 1. There is insufficient antecedent basis for this limitation in the claim.

31. Claim 16 recites the limitation "the set screw" in line 1. There is insufficient antecedent basis for this limitation in the claim.

32. Claim 17 recites the limitation "the face plate" in line 1. There is insufficient antecedent basis for this limitation in the claim.

33. Claim 18 recites the limitation "the holes" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

34. Claims 1-18 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

***Conclusion***

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents and patent application publications to Bowman, Boldia, Miller, Morong, Murray, Eichfeld, Emory, Mack, Mills and McCann show other fishing rod holders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is 703 308-2321. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kurt Rowan

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A handwritten signature in black ink that reads "Kurt Rowan". The signature is written in a cursive, flowing style.

Primary Examiner  
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KR